

DEPARTMENT OF STATE REVENUE

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**LETTER OF FINDINGS NUMBER: 93-0620 CS
CONTROLLED SUBSTANCE EXCISE TAX
FOR TAX YEAR 1993**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Controlled Substance Excise Tax — Imposition

Authority: IC 6-7-3-5

Taxpayer protests the imposition of the controlled substance excise tax.

STATEMENT OF FACTS

Taxpayer was arrested, in Washington County, Indiana, on June 10, 1993 for possession of marijuana. The Department prepared and mailed to taxpayer a controlled substance excise tax assessment, with a base tax deficiency of \$7,008.00, on June 18, 1993. Taxpayer protested this assessment. Additional facts will be provided below, as necessary.

I. Controlled Substance Excise Tax — Imposition

DISCUSSION

At the administrative hearing, taxpayer claimed he was not in possession of the marijuana. Taxpayer also claimed all criminal charges were dropped. Taxpayer asked this hearing officer to contact the Washington County prosecutor's office to discuss the reasons for dropping the criminal charges. When the prosecutor's office was contacted, this hearing officer was told the criminal charges were not dropped but the proceedings were deferred upon the taxpayer's pleading guilty and agreement to undergo a treatment program. Once the treatment program was complete, the case was dismissed.

Indiana Code 6-7-3-5 states:

The controlled substance excise tax is imposed on controlled substances that are:

- (1) delivered;
- (2) possessed; or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Taxpayer has failed to prove he was not in possession of the marijuana. The assessment was based on the weight (in grams) of the marijuana as determined by a Department agent.

FINDING

Taxpayer's protest is denied.